

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TruePosition Inc. )  
Plaintiff/, )  
Counterclaim-Defendant, )  
v. ) Civil Action No. 05-00747-SLR  
Andrew Corporation, )  
Defendant/. )  
Counterclaim-Plaintiff. )

---

TRUEPOSITION'S FIRST SET OF  
INTERROGATORIES TO ANDREW CORPORATION (NOS. 1-15)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff TruePosition, Inc. ("TruePosition") requests that Defendant Andrew Corporation ("Andrew"), answer under oath the following interrogatories within thirty (30) days of the service date hereof.

**Interrogatory No. 7**

State the factual basis for the allegations in the First Affirmative Defense and paragraph 9 in the Counterclaims section of Andrew's Answer that the "144 Patent and each of its claims are invalid and/or unenforceable under one or more sections of Title 35 of the United States Code, including §§ 101, 102, 103, and/or 112," including the identity of each section of Title 35 of the United States Code under which the 144 Patent and each of its claims are allegedly invalid and/or unenforceable, which claims of the 144 Patent are allegedly invalid and/or unenforceable under each section of Title 35 identified, the prior art, if any, that allegedly renders each claim of the 144 Patent invalid and/or unenforceable under each section of Title 35 identified, and how such prior art allegedly renders each claim of the 144 Patent invalid and/or unenforceable under each section of Title 35 identified.

**Response:**

**Interrogatory No. 8**

State the factual basis for the allegation in the Third Affirmative Defense of Andrew's Answer that "TruePosition is barred from maintaining its claims for infringement by the defense of equitable estoppel."

**Response:**

**Interrogatory No. 9**

Sate the factual basis for the allegation in the Fourth Affirmative Defense of Andrew's Answer that "TruePosition is not entitled to any relief by reason of its coming into this Court with unclean hands."

**Response:**

**Interrogatory No. 15**

Explain in detail why Andrew decided to participate in the efforts to include Uplink Time Difference of Arrival (U-TDOA) as a means or method of locating mobile telephones or units in 3GPP and/or ETSI technical specifications or other deliverables, including whether Andrew's relationship with any Wireless Provider, including but not limited to AT&T Wireless and Cingular Wireless, and/or any other customer of Andrew, foreign or domestic, influenced or played any role in the decision to initially participate in such efforts, or to continue participating in such efforts, how any such relationship, individually, influenced or played a role in the decisions to initially participate or continue participating in such efforts, and state the substance of any communications between Andrew and such Wireless Provider and/or customer relating to the issue of whether Andrew should initially participate or continue participating in the efforts to include U-TDOA as a means or method of locating mobile telephones or units in 3GPP and/or ETSI technical specifications or other deliverables, including the date(s) on which such communications occurred and the Persons involved in such communications.

**Response:**

Dated: February 6, 2006

*Scott G. Wilcox*  
**CONNOLLY BOVE LODGE & HUTZ LLP**  
Rudolf E. Hutz, Esq. (#484)  
James D. Heisman, Esq. (#2746)  
Scott G. Wilcox, Esq. (#3882)  
1007 North Orange Street  
P.O. Box 2207  
Wilmington, Delaware 19899  
(302) 658-9141

**WOODCOCK WASHBURN LLP**  
Paul B. Milcetic, Esq.  
Gary H. Levin, Esq.  
David L. Marcus, Esq.  
One Liberty Place - 46th Floor  
17th and Market Streets  
Philadelphia, PA 19103  
(215) 568-3100  
*Attorneys for Plaintiff, TruePosition Inc.*

**CERTIFICATE OF SERVICE**

I, Scott G. Wilcox, hereby certify that on this 6<sup>th</sup> day of February, 2006, I served the foregoing **TruePosition's First Set of Interrogatories to Andrew Corporation (Nos. 1-15)** as indicated below:

*Via Hand-Delivery*

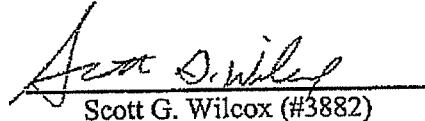
Matt Neiderman, Esquire  
Duane Morris LLP  
1100 North Market Street  
Suite 1200  
Wilmington, DE 19801

*Via Electronic Mail*

Patrick D. McPherson, Esquire  
Duane Morris LLP  
1667 K Street, N.W.  
Washington, DC 20006-1608  
[PDMcPherson@duanemorris.com](mailto:PDMcPherson@duanemorris.com)

John Kiernan, Esquire  
Debevoise & Plimpton LLP  
919 Third Avenue  
New York, NY 10022  
[JSkiernan@debevoise.com](mailto:JSkiernan@debevoise.com)

Carl Riehl, Esquire  
Debevoise & Plimpton  
919 Third Avenue  
New York, NY 10022  
[CRiehl@debevoise.com](mailto:CRiehl@debevoise.com)



\_\_\_\_\_  
Scott G. Wilcox (#3882)

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

TRUEPOSITION, INC.,

Plaintiff/Counterclaim-Defendant

vs.

CA No. 05-00747-SLR

ANDREW CORPORATION,

Defendant/Counterclaim-Plaintiff

VIDEOTAPED DEPOSITION OF DR. DAVID GOODMAN

New York, New York

Monday, January 15, 2007

Reported by:  
Adrienne M. Mignano  
JOB NO. 190791

Esquire Deposition Services  
(215) 988-9191

A96

793958b0-9d46-4d36-bbfc-5c2a24482dd7

Page 2

Page 4

1  
2       January 15, 2007  
3       9:00 a.m.  
4

5       Deposition of DR. DAVID GOODMAN,  
6       held at the offices of Kirkland &  
7       Ellis, 153 E. 53rd Street, New York,  
8       New York, pursuant to Notice, before  
9       Adrienne M. Mignano, a Notary Public of  
10      the State of New York.

1  
2       IT IS HEREBY STIPULATED AND AGREED,  
3       by and between counsel for the respective  
4       parties hereto, that the filing, sealing and  
5       certification of the within deposition shall  
6       be and the same are hereby waived;

7       IT IS FURTHER STIPULATED AND AGREED  
8       that all objections, except as to the form  
9       of the question, shall be reserved to the  
10      time of the trial;

11      IT IS FURTHER STIPULATED AND AGREED  
12      that the within deposition may be signed  
13      before any Notary Public with the same force  
14      and effect as if signed and sworn to before  
15      the Court.

Page 3

Page 5

1  
2       APPEARANCES:

3  
4       WOODCOCK WASHBURN  
5       Attorneys for Plaintiff  
6       Circa Centre, 12th Floor  
7       2929 Arch Street  
8       Philadelphia, PA 19104-2891  
9       BY: PAUL B. MILCETIC, ESQ.

10      KIRKLAND & ELLIS  
11      Attorneys for Defendants and The Witness  
12      200 east Randolph Drive  
13      Chicago, Ill 60601

14      BY: RACHEL PERNIC WALDRON, ESQ.

15  
16       ALSO PRESENT:

17       PAUL JANSEN, Videographer

1  
2       THE VIDEOGRAPHER: Good morning.  
3  
4       Here begins videotape number one  
5       in the deposition of David Goodman in  
6       the matter of TruePosition,  
7       Incorporated versus Andrew Corporation  
8       in the U.S. District Court for the  
9       District of Delaware. Case number  
10      05-00747-SLR.

11      Today's date is January the 15th  
12      2007. The time is 9:05 a.m. This  
13      deposition is being taken at the law  
14      offices of Kirkland & Ellis, 153 East  
15      53rd Street, New York, New York, and  
16      was made at the request of Paul B.  
17      Milcetic of the law offices of  
18      Woodcock and Washburn of Philadelphia,  
19      Pennsylvania.

20      The court reporter is Adrienne  
21      Mignano. The videographer is Paul  
22      Jansen here on behalf of Esquire  
23      Deposition Services, located at 216  
24      East 45th Street, New York, New York.

25      Would counsel and all present  
      please state their appearances for the

2 (Pages 2 to 5)

Esquire Deposition Services  
(215) 988-9191

A97

793958b0-9d46-4d36-bbfc-5c2a24482dd7

Page 6

Page 8

1           Goodman  
2 record.

3           MR. MILCETIC: Paul Milcetic,  
4 Woodcock and Washburn. I represent  
5 TruePosition.

6           MS. WALDRON: Rachel Waldron of  
7 Kirkland & Ellis for Andrew  
8 Corporation.

9           THE VIDEOGRAPHER: Will the court  
10 reporter please swear in the witness.

11 DAVID GOODMAN, called as a  
12 witness, having been duly sworn by a  
13 Notary Public, was examined and  
14 testified as follows:

15 MS. WALDRON: Before we get  
16 started, I just wanted to state for  
17 the record that I'm under the  
18 impression that Dr. Goodman would like  
19 to tell you about some small typos and  
20 contributions that he would like to  
21 make regarding his report.

22 EXAMINATION BY

23 MR. MILCETIC:

24 Q. Typos and corrections; is that  
25 correct, Dr. Goodman?

1           Goodman

2           A. I understand the technology to be  
3 operations within a cellular telephone  
4 network.

5           Q. Did Mr. Parks say anything else?

6           A. I don't recall. We've had many  
7 conversations since then, but initially he  
8 just introduced the dispute to me, and asked  
9 if I would have the availability or  
10 interested in serving as an expert.

11          Q. Have you had any conversations with  
12 anyone other than Mr. Parks at Kirkland &  
13 Ellis?

14          A. Yes.

15          Q. Who?

16          A. Well, Ms. Waldron here. Ms.  
17 Kaplan, and I met Ms. Frye.

18          Can I ask for a clarification?

19          That has to do with this case? You don't  
20 mean any conversations at all with Kirkland &  
21 Ellis?

22          Q. Correct.

23          A. With regard to this case, I think  
24 those were the only people at Kirkland.

25          Q. What were your discussions with Ms.

Page 7

Page 9

1           Goodman

2          A. Yes.

3          Q. Well, before we begin then, why  
4 don't you just tell me your name for the  
5 record.

6          A. Sure. David Joel Goodman.

7          Q. Did there come a time, Dr. Goodman,  
8 that you were contacted by anyone from  
9 Kirkland & Ellis in connection with this  
10 case?

11         A. Yes.

12         Q. When?

13         A. It was sometime in the summer,  
14 perhaps July.

15         Q. Who contacted you?

16         A. Mr. Parks, Michael Parks.

17         Q. What did he say?

18         A. He said that there was some matter  
19 that he thought I might be able to help the  
20 court decide some issues in a patent lawsuit.  
21 And then he told me some details about who  
22 the parties were and the technology.

23         Q. What do you understand the  
24 technology to be in this case?

25         MS. WALDRON: Objection. Vague.

1           Goodman

2         Waldron about?

3         MS. WALDRON: Objection. Vague.  
4         Overbroad.

5         A. Well, mainly about the issues in  
6 the lawsuit. There were some discussions of  
7 scheduling, when could we meet, who is  
8 available on the phone. Things like that.  
9 Various procedural things, but mainly  
10 discussions about the matters in the dispute.

11         Q. Now, before we started asking  
12 questions, Ms. Waldron mentioned that there  
13 were some typos in your report.

14         Do you remember that?

15         A. Yes.

16         Q. Which report are you referring to?

17         A. I submitted two reports in this  
18 case, and actually I have about three or four  
19 places where I think readers would be helped  
20 if I corrected them. There are probably  
21 other typos that are pretty obvious. So I  
22 think there is one matter in the invalidity  
23 report, and three little things in the money  
24 infringement report.

25         Q. I'll give you the opportunity to

3 (Pages 6 to 9)

Esquire Deposition Services  
(215) 988-9191

A98

793958b0-9d46-4d36-bbfc-5c2a24482dd7

Page 70

Page 72

1           Goodman  
 2 transceivers 12A to 12N should read shared  
 3 channel receivers 16A through 16N?  
 4        A. Correct.  
 5        Q. Is it your understanding if we look  
 6 at page 17, just two rows down where it says  
 7 control channel transceivers, do you see  
 8 that?  
 9        A. Yes.  
 10      Q. Is that still accurate in your  
 11 view?  
 12      A. Yes.  
 13      Q. If we look at the claim phrase  
 14 "equipped to receive signals sent by multiple  
 15 mobile cellular telephones," in that same  
 16 page 17 of your report, do you see that in  
 17 block 3 of claim 22?  
 18      A. Yes.  
 19      Q. Doesn't that equipment refer to the  
 20 same equipment that's received in the reverse  
 21 control channels in the claim?  
 22      MS. WALDRON: Object to the form.  
 23      Vague.  
 24      Q. Let me tell you what I'm trying to  
 25 get at. I want to make sure --

1           Goodman  
 2 appreciate your help. I really do.  
 3        Q. If you look on page 18 of this  
 4 report under claim 31, you see again claim  
 5 phrase receiving said reverse claim signals,  
 6 and then again you refer to the control  
 7 channel transceivers 12A through 12N.  
 8        I still want to make sure that's  
 9 still your opinion?  
 10      A. Let's me think about it, please.  
 11      Q. Certainly.  
 12      A. To accurately reflect my -- to  
 13 accurately convey my opinion, we have to make  
 14 the same adjustment here as well.  
 15      Q. Just so --  
 16      A. Should I say exactly --  
 17      Q. I think the clearest way to make  
 18 this record is to allow you to mark up your  
 19 version of the report, which is an exhibit.  
 20 And make the changes there, wherever you  
 21 think it is appropriate.  
 22      A. I have been doing that without  
 23 asking you beforehand.  
 24      Q. So go ahead and mark the change  
 25 that you think would make your report

Page 71

Page 73

1           Goodman  
 2        A. Thank you, I think you're helping  
 3 me if I have been too quick to -- yes, I want  
 4 to make everything consistent. So I  
 5 appreciate your help with this. So let me --  
 6        Mr. Milcetic, thank you. I think  
 7 the fifth row, it should be 16A and it should  
 8 be shared transceivers, so I don't know if I  
 9 have to share my fee with you.  
 10      Q. Not at all.  
 11      A. So that would make it entirely  
 12 consistent. So we want to change 12 to 16  
 13 twice and control to shared.  
 14      Q. And this would be in the fifth  
 15 block of claim 22?  
 16      A. Yes, yes, thank you very much.  
 17      Q. Just along the same lines, to make  
 18 sure we have a final report that we can talk  
 19 about.  
 20      A. Thank you. I'm losing points on  
 21 this exam.  
 22      Q. No, it's okay. It's not an exam.  
 23 We're trying to get what your opinions are  
 24 right now.  
 25      A. Thank you, I understand. I

1           Goodman  
 2 accurate on Exhibit 301.  
 3        A. Thank you very much for the  
 4 opportunity.  
 5        MS. WALDRON: Just so the record  
 6 is clear, we're talking about Exhibit  
 7 300, right?  
 8        MR. MILCETIC: Excuse me, Exhibit  
 9 300, the invalidity report.  
 10      BY MR. MILCETIC:  
 11      Q. Are there any other changes that  
 12 you know of at the moment that you would like  
 13 to make to Exhibit 300 to correct your  
 14 report?  
 15      A. I don't know of any others in  
 16 Exhibit 300.  
 17      Q. The court reporter is about to hand  
 18 you what's been marked already as Exhibit  
 19 466. It's a document titled Draft  
 20 Translation of Japanese Patent Application.  
 21 It's AND0080497 to AND00503.  
 22      (Plaintiff's Exhibit 466, Draft  
 23 Translation of Japanese Patent  
 24 Application, Bates Stamped AND0080497  
 25 to AND00503, marked for identification,

19 (Pages 70 + 73)

Esquire Deposition Services  
 (215) 988-9191

A99

793958b0-9d46-4d36-bbfc-5c2a24482dd7

Page 74

Page 76

1           Goodman  
 2 as of this date.)  
 3 A. I have that.  
 4 Q. Do you recognize Exhibit 466?  
 5 A. Yes.  
 6 Q. What is it?  
 7 A. It's an English translation of  
 8 Japanese laid open patent application. It's  
 9 a draft translation.  
 10 Q. Did you rely on this Exhibit 466 in  
   11 rendering your invalidity report?  
 12 A. Yes.  
 13 Q. Do you speak Japanese yourself?  
 14 A. No, I don't.  
 15 Q. Without the translation, would you  
   16 be able to understand the Japanese reference?  
 17 A. No.  
 18 Q. Now, what I would like to do, and  
   19 I'm going to tell you what I'm going to do.  
 20 You have got Exhibit 466 in front of you,  
   21 correct, the Japanese translation?  
 22 A. Yes.  
 23 Q. And you have got in front of you  
   24 your invalidity report, which is Exhibit 300,  
   25 which you have now made some corrections to,

1           Goodman  
 2 system for determining the locations of  
 3 multiple cellular telephones."  
 4 Do you see that?  
 5 A. Yes.  
 6 Q. And your opinion is that that is  
   7 disclosed in Kono, correct?  
 8 A. Correct.  
 9 Q. And in particular in the draft  
 10 translation of Kono that's Exhibit 466,  
   11 correct?  
 12 A. Yes.  
 13 Q. Feel free to refer to your report  
   14 for this.  
 15 Where in Kono is that claim element  
   16 disclosed?  
 17 A. With your permission, I might mark  
   18 up some or all of these exhibits just to help  
   19 me out with your questions, is that --  
 20 Q. I think that's a perfect idea. If  
 21 I were you, I would leave your report alone.  
 22 A. I won't mark up my report.  
 23 Q. Other than that, that's fine.  
 24 MS. WALDRON: Sure. Whatever  
 25 helps you.

Page 75

Page 77

1           Goodman  
 2 correct?  
 3 A. Yes.  
 4 Q. Feel free to refer to that. And  
 5 there is also, I believe you also have the  
 6 patent in front of you?  
 7 A. I do.  
 8 Q. Which is --  
 9 A. 462.  
 10 Q. What I'm going to ask you now is a  
   11 series of questions, and I'm going to go down  
   12 the summary chart reflecting your opinions  
   13 for various elements in that chart, I'm going  
   14 to ask you where you found those elements in  
   15 the draft translation and why you believe  
   16 those elements are disclosed in the draft  
   17 translation of Kono. Is that all right with  
   18 you?  
 19 So we'll go through your report in  
 20 a little more detail essentially.  
 21 A. Of course.  
 22 Q. Now, let's start with page 15 of  
 23 your invalidity report. The first row.  
 24 A. I have that.  
 25 Q. The phrase is "a cellular location

1           Goodman  
 2 A. Excuse me, Mr. Milcetic, before I  
 3 answer your question, I want to point out  
 4 that figures in the patent application aren't  
 5 included in Exhibit 466.  
 6 Q. Were they included in the version  
   7 that you prepared in rendering your report?  
 8 A. Yes.  
 9 Q. I believe this is the only version  
   10 that we have.  
 11 MS. WALDRON: Do you mean that  
   12 there were figures in that or that you  
   13 also relied on the original Japanese  
   14 figures?  
 15 THE WITNESS: That's true. I  
   16 relied on the figures. Anyway, I  
   17 had -- it says Figure 1, and I had a  
   18 copy of Figure 1 that I attached to  
   19 this, and I suppose maybe the  
   20 translator didn't attach it.  
 21 Q. Would it be helpful if I gave you  
   22 the figures in the original Japanese  
   23 translation?  
 24 A. Yes, please.  
 25 MS. WALDRON: I believe there are

20 (Pages 74 to 77)

1           Goodman  
 2 also some in the report.  
 3         THE WITNESS: Thanks.  
 4         A. For the moment, Mr. Milcetic, Ms.  
 5 Waldron showed me that I incorporated it in  
 6 my report, so --

7         Q. Go ahead.  
 8         A. I don't need you to give me Figure  
 9 1 right now. Maybe all of them that I  
 10 referred to, if you remember that.

11         What's the question, please?

12         Q. Referring to page 15 of your  
 13 report, where in the Kono disclosure is a  
 14 cellular telephone location system for  
 15 determining the location of multiple mobile  
 16 telephones disclosed?

17         A. Okay.

18         And my answer is in the sentence in  
 19 the right-hand column of row 1 that appears  
 20 on page 3 of the translation, the working  
 21 example of this invention is described below,  
 22 and then it says Figure 1 shows a  
 23 configuration of a moving body position  
 24 location apparatus.

25         Q. And it's your interpretation that

1           Goodman  
 2 set of reverse control channels, Kono  
 3 discloses -- in other words, if somebody  
 4 decides that Andrew equipment is using a  
 5 prescribed set of reverse control channels,  
 6 then they would be forced to say that Kono is  
 7 also using a prescribed set of reverse  
 8 control channels.

9         Q. So is it correct that you're not  
 10 really saying that the '144 patent isn't  
 11 valid, so much that it may be invalid under  
 12 some interpretation of the patent?

13         MS. WALDRON: Objection.

14         Mischaracterizes.

15         A. What am I supposed to say yes or no  
 16 to?

17         Q. Let me ask a different question.

18         A. You're putting words into my --  
 19 that I didn't write into this report. Maybe  
 20 I should read how I described the situation.

21         Q. The question I have is: Is it your  
 22 opinion that the '144 patent is invalid?

23         A. Yes.

24         Q. Is it your opinion that the '144  
 25 patent is invalid even if Andrew's product is

1           Goodman  
 2 the moving body refers to a cellular  
 3 telephone?

4         A. That's my interpretation.

5         Q. The next block down on page 15 of  
 6 your report, do you see that?

7         A. Yes.

8         Q. The phrase is "each initiating  
 9 periodic signal transmission over one of a  
 10 prescribed set of reverse control channels  
 11 comprising."

12         Do you see that?

13         A. Yes.

14         Q. Where in the Kono disclosure is  
 15 that claim element disclosed?

16         A. It says on page 3, at the beginning  
 17 of the section that's headed operation of the  
 18 invention, it says, "in this invention, a  
 19 moving body transmits position locating  
 20 signals using shared terminals."

21         Q. Is it your understanding that  
 22 shared channels are the same as a prescribed  
 23 set of reverse control channels?

24         A. It's my understanding that to the  
 25 extent that Andrew system using a prescribed

1           Goodman  
 2 not encompassed -- is not encompassed within  
 3 the '144 patent claims?

4         MS. WALDRON: Object to the form.

5         Q. Let me repeat it.

6         Is it your opinion that the '144  
 7 patent is invalid even if Andrew's geometrics  
 8 is not encompassed within the '144 patent  
 9 claims?

10         MS. WALDRON: Objection.

11         A. I don't have an opinion about that.

12         Q. As to whether under that set of  
 13 circumstances, the '144 patent is invalid?

14         A. I haven't done that analysis at  
 15 all.

16         Q. What is it about the phrase shared  
 17 channels in Kono that makes you believe that  
 18 it is similar or that it corresponds to  
 19 anything in Andrew's product?

20         MS. WALDRON: Object to the form.

21         Compound.

22         A. I think these channels are carrying  
 23 information in two directions, as a way that  
 24 the channels used in the Andrew's product.

25         Q. Specifically stand-alone dedicated

Page 82

Page 84

1           Goodman  
2 channels you mean?

3       A. Yes.

4       Q. In Andrew's product?

5       A. Yes.

6       Q. What makes you think that in Kono,  
7 the shared channels are being transmitted in  
8 two directions?

9       A. Well, because Kono disclosing a  
10 transceiver at the cell site, or whatever he  
11 calls the cell site, and transceiver includes  
12 transmitter and receiver.

13       Also, it seems that Kono technology  
14 allocates this shared channel to one cell  
15 phone at a time. Just as Andrew -- just as a  
16 stand-alone dedicated control channel carries  
17 in any particular time interval information  
18 from between one cell phone and one base  
19 station.

20       Q. Is it your understanding that the  
21 shared channels in Kono are channels that are  
22 emitted as part of the normal operation as  
23 part of a telephone location system?

24       MS. WALDRON: Objection. Vague.  
25       A. I think they are emitted. The

1           Goodman  
2 THE WITNESS: If it is fine with  
3 you. We just said that. I could stop  
4 now.

5       THE VIDEOGRAPHER: We're off the  
6 video record at 12:29 p.m.

7       (Thereupon, a recess was taken,  
8 and then the proceedings continued as  
9 follows.)

10       THE VIDEOGRAPHER: We're back on  
11 the video record at 1:34 p.m.  
12       AFTERNOON SESSION  
13       DAVID GOODMAN, resumed and  
14 testified as follows:

15       EXAMINATION BY (Cont'd.)

16       MR. MILCETIC:

17       Q. Dr. Goodman, when we left we were  
18 talking about a page of your invalidity  
19 report.

20       Do you remember that?

21       A. I think so. Yes, okay, now, I  
22 remember.

23       Q. And we were discussing the summary  
24 chart, and in particular the second row of  
25 the summary chart on page 15.

Page 83

Page 85

1           Goodman  
2 shared channels are emitted.

3       Would you read the question again?

4       (Record read)

5       Q. Actually, I'll rephrase it.

6       Is it your understanding that the  
7 position locating signals transmitted over  
8 the shared channels are signals that are sent  
9 in the context of a normal cellular telephone  
10 system?

11       MS. WALDRON: Objection. Vague.

12       A. I suppose normal -- I'm not sure  
13 what normal means in this question. If you  
14 could explain it further, I can answer it  
15 certainly.

16       Q. Is it your understanding that the  
17 position locating signals in Kono are part of  
18 the signals that are sent in any cellular  
19 telephone system as part of its everyday  
20 operation.

21       MS. WALDRON: Objection. Vague.

22       A. Yes.

23       MS. WALDRON: While there is no  
24 question pending, are we still  
25 breaking for lunch at 12:30?

1           Goodman  
2 Do you remember that?

3       A. Yes, I recall.

4       Q. Is it your view that the claim  
5 phrase prescribe set of a reverse control --  
6 let me step back.

7       Let me redo that one, if that's  
8 okay with you.

9       A. Oh, of course.

10       Q. Is it your opinion that the phrase  
11 "prescribed set of reversed control channels"  
12 is disclosed in Kono under the construction  
13 that you provided this morning?

14       A. To the extent that it is practiced  
15 by Andrew, so if it is interpreted in such a  
16 way that you can find it in Andrew's  
17 technology, you would be compelled to say  
18 that Andrew has it as well.

19       Q. When you say that it is  
20 interpreted, you mean to the extent that your  
21 construction is interpreted?

22       A. Yes.

23       Q. I believe your construction this  
24 morning of reverse control channel included  
25 the requirement of a particular signal format

22 (Pages 82 to 85)

Esquire Deposition Services  
(215) 988-9191

A102

793958b0-9d46-4d36-bbfc-5c2a24482dd7

1           Goodman  
2 according to certain cellular telephone  
3 standards; is that right?

4       A. Yes.

5       Q. Does Kono disclose that signal  
6 format?

7       A. I think to the same extent that  
8 Andrew does, yes. To the same extent that  
9 Andrew uses that format, I think Kono uses it  
10 the same way Andrew does.

11      Q. Is it fair to say that both Kono  
12 and Andrew do not use that signal format?

13      MS. WALDRON: Objection. Form.

14      A. I guess depending on the context,  
15 somebody might say that.

16      Q. Well, do you believe that Andrew  
17 uses that signal format?

18      A. No.

19      Q. Then does it follow that Kono  
20 doesn't use that signal format as well?

21      MS. WALDRON: Objection to the  
22 form.

23      A. I think I answered that as well.

24      In the same way that Andrew uses it or  
25 doesn't use it, Kono -- I think I explained

1           Goodman  
2 has similar properties to the stand-alone  
3 dedicated control channel that I understand  
4 is TruePosition's. It conforms to the  
5 prescribed set of reverse control channels,  
6 because, as you know, I have done the  
7 infringement analysis as well as the  
8 invalidity analysis, so I'm aware of how  
9 TruePosition interprets this and I think they  
10 are compelled to say. I know you have had  
11 different experts for the two things. I  
12 think if you ask Dr. Gottesman, he would have  
13 to say, oh, yeah, it's in Kono too because of  
14 the way he found it in Andrew. I don't agree  
15 with him.

16      Q. When did you first learn how  
17 TruePosition contends that Geometrix  
18 infringes the patent?

19      A. I suppose it was in the summer when  
20 Mr. Parks told me about the lawsuit.

21      Q. When did you start learning about  
22 how Geometrix works in terms of its  
23 operation?

24      A. I think it was in October, towards  
25 the middle or end of October.

1           Goodman  
2 that before lunch.

3       Q. But you testified that Andrew  
4 doesn't use that signal format, right, the  
5 signal format in the cellular telephone  
6 standards that define reverse control channel  
7 in a way that you are interpreting it, right?

8       A. Yes.

9       Q. And you also testified that Kono  
10 discloses that element to the same extent as  
11 Andrew practices that element, correct?

12      A. Yes.

13      MS. WALDRON: Objection.

14      Q. Doesn't it follow then that Kono  
15 doesn't then disclose that element?

16      A. I think to give a complete opinion,  
17 I'd have to say that somebody who would find  
18 that element in Andrew would have to find it in  
19 Kono. So if somebody doesn't find it in  
20 Andrew, I don't know, but -- I think  
21 that's -- that sentence is my opinion.

22      Q. And what is the basis for that  
23 opinion?

24      A. The basis for that opinion is that  
25 the shared channel in the Kono application

1           Goodman

2       Q. Do you know when you first formed  
3 an opinion that the '144 patent was invalid  
4 if the claims are construed to cover  
5 Geometrix?

6       A. Yes.

7       Q. When?

8       A. I think the first week in November.  
9 Within that time frame.

10      Q. Do you remember when you first came  
11 to the opinion that Geometrix doesn't  
12 infringe the '144 patent?

13      A. I'm trying to synchronize these  
14 dates here, but I think early in December I  
15 came to the opinion that Dr. Gottesman didn't  
16 prove that Geometrix infringes the '144  
17 patent, so that's the opinion I want to offer  
18 to the court.

19      I was asked by Kirkland & Ellis to  
20 find out whether Dr. Gottesman proved it, and  
21 it's my opinion that he did not.

22      Q. Is it your understanding that the  
23 Kono disclosure discloses an AMPS cellular  
24 telephone system?

25      A. Sorry, I haven't been asked for

Page 102

Page 104

## 1           Goodman

2       Q. I noticed in your invalidity  
 3 report, Exhibit 300, at the end of the  
 4 report, there is a listing of material to be  
 5 considered in forming your opinion relating  
 6 to the invalidity of the '144 patent,  
 7 correct?

8       A. Yes.

9       Q. And I also noticed that nothing in  
 10 that report, the invalidity report, none of  
 11 those materials seem to relate to the  
 12 operations of Geometrix.

13      Am I right about that?

14      MS. WALDRON: Objection. Form.  
 15     Assumes a fact.

16      A. I agree with you about -- well, I'd  
 17 like to see. I just don't remember what's in  
 18 references 5, 6 and 7 in Andrew, documents  
 19 prepared by Andrew Corporation. Those are, I  
 20 think, the only ones that might say something  
 21 about how their Geometrix system works. I  
 22 don't remember what's in them.

23      Q. Did you, for purposes of rendering  
 24 your invalidity report, did you consider the  
 25 operation of Geometrix?

## 1           Goodman

2       Q. Would you prefer to make that  
 3 change?

4       A. Yes.

5       Q. Please go ahead since we're keeping  
 6 a master copy of what the report is  
 7 reflecting your opinions today.

8       A. Yes.

9       Q. Just for the record, you're writing  
 10 on Exhibit 300, correct?

11      A. That's correct. I'm writing on  
 12 page 3 of Exhibit B.

13      Q. Apart from Ms. Waldron and  
 14 Mr. Kennedy, was there anyone else on the  
 15 conversation?

16      A. I don't remember. There might have  
 17 been another Kirkland attorney, but I don't  
 18 know.

19      Q. What exactly did you discuss?

20      MS. WALDRON: Objection. Vague.

21      A. As best as I can recall about that  
 22 particular conversation, I think he kind of  
 23 talked me through the -- talked me --  
 24 explained step by step how Geometrix system  
 25 finds out where a mobile phone is. Finds the

Page 103

Page 105

## 1           Goodman

2       A. Yes.

3       Q. What were the sources that you  
 4 used?

5       A. To my recollection, there is one  
 6 source that I didn't list here, and that was  
 7 a phone conversation with Mr. Kennedy, who is  
 8 an employee of Andrew.

9       Q. When was the phone conversation?

10      A. If I recall correctly, I spoke to  
 11 him before I wrote the invalidity report. I  
 12 just don't know.

13      Q. Do you think to make your  
 14 invalidity report accurate, it would be worth  
 15 correcting it to add the Joseph Kennedy  
 16 conversation?

17      A. I think so. If that's true, I  
 18 would like to ask Ms. Waldron because she  
 19 participated in the phone conversation if it  
 20 actually occurred.

21      MS. WALDRON: I'm not allowed to  
 22 testify right now.

23      A. As I recall now, I think that would  
 24 improve the report to say that I had a phone  
 25 conversation with Mr. Kennedy.

## 1           Goodman

2 location of a mobile phone.

3       Q. Apart from -- let me step back.  
 4       What did Ms. Waldron say on the  
 5 conversation?

6       MS. WALDRON: Objection. Vague.

7       Overbroad.

8       A. I don't recall that she said  
 9 anything. I was visiting Kirkland & Ellis'  
 10 office at the time, and as I said, Ms.  
 11 Waldron was there, maybe Mr. Parks.

12      Q. Where were you exactly?

13      A. At the Kirkland & Ellis office in  
 14 Chicago.

15      Q. About when did the conversation  
 16 take place?

17      A. Early November.

18      Q. Other than the early November  
 19 conversation between yourself, Joe Kennedy  
 20 and Ms. Waldron, did you have any other  
 21 source of understanding of how Geometrix  
 22 works at the time that you rendered your  
 23 invalidity report?

24      A. I don't recall any other sources.

25      Q. At that time, had you looked at any

27 (Pages 102 to 105)

Esquire Deposition Services  
 (215) 988-9191

A104

793958b0-9d46-4d36-bbfc-5c2a24482dd7

1           Goodman

2 Geometrix source code?

3       A. No.

4       Q. At that time, had you looked at any  
5 technical documentation relating to the  
6 operation of Geometrix?

7       A. I don't think so.

8       Q. Let me explain where I'm going with  
9 this.

10      As I understand it, correct me if  
11 I'm wrong, you were -- your opinion in your  
12 invalidity report in summary is that the Kono  
13 disclosure discloses each element of the  
14 claims and corresponds to each element of the  
15 '144 patent claims to the same extent that  
16 Geometrix does, correct?

17      A. Yes, almost correct.

18      Maybe not to the same extent, but  
19 if Geometrix conforms to the claims, then  
20 Kono conforms to the claims, and I don't know  
21 how to measure extent. It seems like a  
22 binary thing, it either conforms or it  
23 doesn't.

24      Q. It follows then at the time that  
25 you rendered your invalidity opinion, you

1           Goodman

2 them, and I just don't remember when I  
3 received them and when I read them relative  
4 to preparing this report. But I think the  
5 information that I used was what I heard  
6 Mr. Kennedy tell me about.

7       Q. When Mr. Kennedy explained the  
8 operation of the Geometrix system to you, did  
9 he go through each element of the claims and  
10 discuss how Geometrix relates to those  
11 elements?

12      MS. WALDRON: Objection. Vague.  
13      Assumes a fact.

14      A. As best as I can recall from two,  
15 two-and-a-half months ago from a phone  
16 conversation, he really didn't analyze the  
17 '144 patent. You know, I asked him  
18 questions, tell me how it works, he told me  
19 how it worked, and we didn't get very far  
20 into the patent claims. I just wanted to  
21 know how does your stuff find out where a  
22 cell phone is located.

23      Q. Next claim element on page 16 of  
24 your invalidity report is timing signal  
25 receiver.

1           Goodman

2 must have had some working knowledge of the  
3 Geometrix product, correct?

4       A. Yes.

5       Q. To render that opinion?

6       A. Yes.

7       Q. And that understanding of the  
8 Geometrix product at the time that you  
9 rendered your invalidity report would have  
10 been based, at least in part, on the  
11 conversation between you and Mr. Kennedy in  
12 early November, correct?

13      A. Yes.

14      Q. And thus far, you haven't been able  
15 to recall any other sources of information,  
16 right?

17      MS. WALDRON: Objection.

18      Misstates.

19      A. At the moment, I don't recall.

20      Q. Do you want to think about it and  
21 think of some other potential sources?

22      A. Well, I was just going to explain  
23 my answer a little more. That I have, by now  
24 I have a pile of documents relating to the  
25 Geometrix system, and I have read a lot of

1           Goodman

2      Do you see that?

3       A. Yes.

4       Q. It's your opinion that the timing  
5 signal receiver limitation in claim 1, the  
6 second row of the chart on claim 16, is  
7 disclosed in Kono?

8       A. Yes.

9       Q. What's the basis of that  
10 understanding?

11      A. My basis for that understanding is  
12 that there is a high precision clock within  
13 each of the shared channel receivers labeled  
14 54 in the Kono patent, and that this -- the  
15 high precision clocks at all of the base  
16 stations are corrected by the switching  
17 station.

18      Q. Is it your understanding that the  
19 Kono disclosure discloses a GPS clock?

20      A. That's not my understanding. I  
21 don't subscribe to that.

22      Q. Is it your belief that Kono  
23 discloses a GPS receiver?

24      A. It's my belief that Kono does not  
25 say anything about a GPS receiver. Sorry,

<p style="text-align: right;">Page 114</p> <p>1           Goodman      2   Q. Are any of the documents that one      3   would look to in 1993 for the GPS receiver      4   disclosure mentioned in your report?      5   A. Not explicitly.      6   Q. If you go back to page five of your      7   invalidity report, please.      8   A. Five?      9   Q. Yes.      10   A. Yes, I'm there.      11   Q. There is a legal standard on page 5      12   relating to obviousness that you read      13   earlier, correct?      14   A. Yes.      15   Q. Is that essentially what the      16   attorneys explained to you about how you go      17   about showing whether something is obvious?      18   A. Yes.      19   Q. Did they use any kind of      20   terminology relating to motivations to      21   combined prior art references?      22   A. I have heard that expression, and I      23   don't remember if I heard it in my discussion      24   of this patent, but I have heard it in other      25   context. So I know that that is a</p>	<p style="text-align: right;">Page 116</p> <p>1           Goodman      2   But it is the sort of thing that's a little      3   obscure to an engineer.      4   Q. Reading Kono, the Kono disclosure,      5   will you conclude that what's disclosed there      6   must be implemented using a GPS receiver?      7   A. No.      8   Q. Can we go back to claim 15 of your      9   report now?      10   A. Of course.      11   Q. Back to the earlier claim elements.      12   Actually it's page 60.      13   A. Page 60.      14   Q. Yes.      15   This all started with the timing      16   signal receiver?      17   A. Yes.      18   Q. Next claim element is a sampling      19   subsystem.      20   Do you see that?      21   A. Yes, I do.      22   Q. It's in the third row of the chart      23   on page 16 of your invalidity report.      24   Do you see that?      25   A. Yes.</p>
<p style="text-align: right;">Page 115</p> <p>1           Goodman      2   consideration.      3   Q. Turning back to page 17, the claim      4   element wherein said timing receiver      5   comprising a global positioning system      6   receiver.      7   A. Yes.      8   Q. Do you believe your report is      9   accurate as it is written in that -- under      10   the question present in Kono, it says yes?      11   A. I'm having a problem with that word      12   inherently.      13   Q. You're not sure --      14   A. In my instruction. So it's my      15   opinion if -- so I was informed by Kirkland &amp;      16   Ellis that it has to be there either      17   expressly or inherently, and I certainly      18   don't have the opinion that it is there      19   expressly, and sitting here I forgot what      20   they told me about inherently. I'm sure we      21   discussed it. I think that's why I wrote yes      22   at the time.      23   If you would give me a definition      24   of inherently, I would tell you whether      25   sitting here I think it fits your definition.</p>	<p style="text-align: right;">Page 117</p> <p>1           Goodman      2   Q. Since that's a long one, can you      3   read that limitation into the record?      4   A. "And a sampling sub, system      5   operatively coupled to set timing signal      6   receiver and said baseband converter for      7   sampling baseband converter at a prescribed      8   frequency and formatting the sample signal      9   into frames of digital data each frame      10   comprising of a prescribed number of data      11   bits, said time stamp bits representing the      12   time which said cellular telephone signals      13   were received."      14   Q. Is it your opinion that Kono      15   discloses that claim limitation?      16   A. It's my opinion that if someone      17   asserted that Andrew Geometrix product has a      18   sampling subsystem as described here, that      19   same person would be compelled to say that      20   Kono also has it.      21   Q. Why do you say that?      22   MS. WALDRON: Objection. Vague.      23   Form.      24   A. It's based on my understanding of      25   the patent and my understanding of Kono's</p>

30 (Pages 114 to 117)

Esquire Deposition Services  
 (215) 988-9191

A106

793958b0-9d46-4d36-bbfc-5c2a24482dd7

<p style="text-align: right;">Page 118</p> <p>1           Goodman 2 application and my understanding of how the 3 Geometrix system works. 4     Q. Would you agree that the Kono 5 disclosure discloses no particular algorithm 6 of any kind? 7       MS. WALDRON: Objection. Vague. 8       Ambiguous. 9     A. Would you read the question, 10 please? 11       (Record read) 12       A. I disagree. 13       Q. Where does Kono disclose an 14 algorithm? 15       A. On page 4, there is a long middle 16 paragraph of this translation. There is a 17 mistake, I assume it is a mistake in the 18 translation or typo here, but I'll tell you. 19       I just have to narrow it down. 20       So if we say the word reports, 21 which is -- it's about six lines, maybe the 22 seventh line from the bottom of that long 23 paragraph, at the end of the line, it says 24 and reports to, and I think the thing that's 25 doing the reporting is the base stations.</p>	<p style="text-align: right;">Page 120</p> <p>1           Goodman 2 THE VIDEOGRAPHER: We're off the 3 video record at 2:43 p.m. 4       (Thereupon, a recess was taken, 5 and then the proceedings continued as 6 follows.) 7       THE VIDEOGRAPHER: We're back on 8 the video record at 3:01 p.m. 9 BY MR. MILCETIC: 10      Q. Dr. Goodman, when we left, we were 11 talking about page 16 of your invalidity 12 report, and particularly the sampling 13 subsystem limitation. 14      A. Yes. 15      Q. What is a sampling subsystem? 16       MS. WALDRON: Objection. Calls 17 for a legal conclusion. 18       A. I think for someone to understand 19 the meaning of sampling subsystem in this 20 patent, they would read the entire claim 21 limitation, and say a sampling subsystem is 22 the thing that does all of the stuff that is 23 in all of the -- performs all of the 24 operations. 25       I withdraw my answer for the</p>
<p style="text-align: right;">Page 119</p> <p>1           Goodman 2 But anyway, reports to the switching stations 3 data such as difference in arrival time 4 position locating signals. And then the base 5 station forwards these data to the position 6 location calculating device. 7       And I think to make sense, this 8 would have to be the switching station 9 because one is a reference to switching 10 station. So -- and then it says the position 11 of the mobile equipment is calculated, and I 12 think someone of skill in the art would know 13 that there are many algorithms that would use 14 time difference of arrival to calculate 15 position. 16      Q. Is it your view that Kono then 17 discloses each one of those algorithms? 18      A. Yes. I'm not a lawyer, but I think 19 so. I mean, if Kono is valid, then anyone 20 using -- I just think so. As an engineer. 21       MS. WALDRON: Is this an okay 22 time for a break? 23       MR. MILCETIC: Any time. 24       THE WITNESS: We're running out 25 of tape.</p>	<p style="text-align: right;">Page 121</p> <p>1           Goodman 2 moment. Let me think about it. 3       I'll reinstate my answer. It's 4 some sort of apparatus that works in 5 connection with a timing signal receiver and 6 a baseband converter, and the things that it 7 does in these operations is sample the 8 baseband signal in a certain way. It formats 9 the sample signal into claims of data, and 10 these frames have particular properties as 11 described here. And the frames consist of 12 data bits and time stamp bits. And each of 13 those bits have prescribed properties. 14      Q. Before you ever read the '144 15 patent, have you ever seen a sampling 16 subsystem before? 17       MS. WALDRON: Objection. 18       Overbroad. 19       A. I don't remember. 20       Q. Would you say that the phrase 21 sampling subsystem is a term of art in your 22 field? 23       MS. WALDRON: Objection. Vague. 24       A. No, I wouldn't. 25       Q. Let's move on to the next element</p>

31 (Pages 118 to 121)

Esquire Deposition Services  
(215) 988-9191

A107

Page 122

Page 124

1           Goodman  
 2 now on page 16.  
 3       Do you see the central site system  
 4 element?  
 5       A. Yes.  
 6       Q. So on page 16 of your report at the  
 7 fourth row of the chart, there is a central  
 8 site system limitation cited, correct?  
 9       A. Yes.  
 10      Q. That's in claim 1 of the '144  
 11 patent claims?  
 12      A. Yes.  
 13      Q. It's your opinion that that is  
 14 disclosed by the switching station and  
 15 position location calculating device?  
 16      A. Yes.  
 17      Q. Are you saying both of them  
 18 together disclose a central site system.  
 19       Is your understanding that the  
 20 position location calculating device is just  
 21 a computer in Kono?  
 22      A. I think someone of skill in the art  
 23 would recognize that it could be realized --  
 24 I'm not sure what a computer means, but it  
 25 could be realized by a microprocessor or a

1           Goodman  
 2       A. May I look at my claims  
 3 construction that are in these exhibits?  
 4       Q. Certainly. I believe your claim  
 5 construction is Exhibit --  
 6       A. So somewhere I defined means for  
 7 processing. So it might help me to --  
 8       Q. Yes. I think it is 463 or 464 that  
 9 you did that.  
 10      A. Yes, I see something on 463. I'd  
 11 like also to look at one of the other  
 12 exhibits, which was Andrew's proposed claim  
 13 construction from November 22nd.  
 14      Q. That's Exhibit 301.  
 15      A. 301. Thank you. I'm going to  
 16 refer to Exhibit 301.  
 17       Just to be absolutely certain,  
 18 would you read the question, please, just so  
 19 I know what I'm answering.  
 20       (Record read)  
 21      Q. I can clarify if you like.  
 22      A. I want to make sure I'm answering  
 23 the right question. It wasn't that it was  
 24 unclear.  
 25      Q. Under your construction today, you

Page 123

Page 125

1           Goodman  
 2 digital microprocessor. There are all forms  
 3 of computers. I don't know about a laptop or  
 4 a desktop.  
 5       So that would be part of it, and  
 6 the remainder of it would be some sort of  
 7 communication resources for transferring  
 8 information to and from the switching  
 9 station.  
 10      Q. The next claim element on page 16  
 11 is "means for processing said frames of data  
 12 from said cell site systems."  
 13      Do you see that?  
 14      A. Yes.  
 15      Q. Is it your opinion that that claim  
 16 term is disclosed in Kono?  
 17      A. It's my opinion that if somebody  
 18 found it in the Geometrix equipment, they  
 19 would be compelled to say that it is also in  
 20 Kono.  
 21      Q. In your view, does Kono disclose a  
 22 means for processing that's in some way  
 23 similar to a means for processing in  
 24 Geometrix?  
 25      MS. WALDRON: Objection. Vague.

1           Goodman  
 2 just looked it up --  
 3       A. It's actually 465, I think.  
 4       Q. In Exhibit 465, Does Kono disclose  
 5 the means for processing limitation?  
 6       A. It's --  
 7       MS. WALDRON: Objection. Vague.  
 8       Calls for legal conclusion.  
 9       A. It's my opinion that someone of  
 10 skill in the art who finds that claim element  
 11 in Geometrix equipment would be compelled to  
 12 say that it also exists in Kono.  
 13      Q. What's the basis for your opinion?  
 14      A. The basis for my opinion is this  
 15 statement in Exhibit 466 that something  
 16 reports to the switching station data such as  
 17 the difference in arrival time of position  
 18 locating signals with respect to the  
 19 different base stations.  
 20      Q. The construction that you laid out  
 21 this morning for means for processing  
 22 encompassed Figure 6A and Figure 7, correct?  
 23      A. Yes.  
 24      Q. If I went through those figures on  
 25 a block by block basis, would you be able to

32 (Pages 122 to 125)

Esquire Deposition Services  
(215) 988-9191

A108

793958b0-8d46-4d36-bbfc-5c2a24482dd7

Page 126

Page 128

1           Goodman  
 2 find a disclosure in Kono that corresponds to  
 3 those figures?

4           MS. WALDRON: Objection.

5           Compound. Overbroad.

6           A. It's my opinion that if somebody  
 7 performed this exercise with respect to the  
 8 Geometrix equipment, and came to the  
 9 conclusion that you suggest, that all of  
 10 those things exist in the Geometrix  
 11 equipment, they would also have to say that  
 12 it exists in Kono.

13          Q. Is the disclosure in Kono, does  
 14 that essentially describe in your view the  
 15 Geometrix equipment?

16          MS. WALDRON: Objection. Vague.  
 17          Ambiguous.

18          A. I haven't performed this analysis,  
 19 but I'll just stop there. I haven't advised  
 20 anyone whether Geometrix has to pay royalties  
 21 to Kono if that's what you're asking me.

22          That might be another infringement.

23          Q. When you were rendering your  
 24 invalidity report, did anyone explain to you  
 25 how means plus function claims elements were

1           Goodman  
 2 MS. WALDRON: Objection. Form.  
 3 Legal conclusion.

4           A. Would you state a complete question  
 5 about infringement?

6           Q. With respect to infringement, is it  
 7 your understanding that means plus function  
 8 elements are construed to cover the  
 9 corresponding structure plus equivalents?

10          MS. WALDRON: Objection. Calls  
 11 for a legal conclusion.

12          A. I understand that the claim may be  
 13 drafted in means plus function format. I  
 14 understand that for an accused product to  
 15 literally meet a means plus function claim  
 16 limitation, an element in the accused product  
 17 must, one, perform the same function recited  
 18 in the means plus function claim limitation,  
 19 and, two, use the same structure disclosed in  
 20 the patent specification or its equivalent  
 21 structure to perform the recited function.

22          I understand that an accused  
 23 structure may be equivalent to the disclosed  
 24 structure in the patent specification if it  
 25 performs the same function in the same way to

Page 127

Page 129

1           Goodman  
 2 construed?

3          A. I think so. I have heard  
 4 explanations before I got involved in this  
 5 lawsuit, and I assume -- I would imagine that  
 6 I heard the same explanations, but I don't  
 7 remember specifically.

8          Q. What is your understanding about  
 9 means plus function claim elements are  
 10 construed?

11          A. My understanding is that in order  
 12 to construe the claims, you have to read the  
 13 claim itself and find out what function is  
 14 being claimed, and then read the patent  
 15 specification to find out the structure that  
 16 performs that function.

17          Q. Is it your understanding that the  
 18 structure can be found in the prior art if an  
 19 equivalent of the structure is disclosed?

20          MS. WALDRON: Objection. Legal  
 21 conclusion. Compound.

22          A. I have no understanding of whether  
 23 that's true or not.

24          Q. How about with respect to  
 25 infringement?

1           Goodman  
 2 achieve the same result.

3          Q. When you were doing your validity  
 4 analysis for Kono, did you also understand  
 5 that means plus function claim elements  
 6 encompass corresponding structure and  
 7 equivalent structure?

8          MS. WALDRON: Objection. Legal  
 9 conclusion. Assumes a fact.

10          A. Would you read the question again?  
 11          (Record read)

12          A. I didn't use that legal rule in my  
 13 validity analysis. I understood what it  
 14 meant in terms of infringement, but I didn't  
 15 use it in my validity analysis.

16          Q. Correct me if I'm wrong, your  
 17 testimony is that this means for processing  
 18 limitation is disclosed in Kono to the same  
 19 extent that one would claim it's found in  
 20 Geometrix; is that correct?

21          A. Again, I won't subscribe to same  
 22 extent, either it's found there or not. I  
 23 don't know what an extent of finding it. So  
 24 it's my opinion that if somebody were to  
 25 analyze the Geometrix technology and apply

33 (Pages 126 to 129)

Esquire Deposition Services  
 (215) 988-9191

A109

793958b0-9d46-4d36-bbfc-5c2a24482dd7

Page 130

Page 132

1           Goodman  
 2 this claim construction and then find in the  
 3 Geometrix technology that the claim  
 4 limitation is met, that same person would be  
 5 compelled to say that it is also met in Kono.  
 6 Or that Kono discloses it.

7           Q. But that's not necessarily because  
 8 the algorithms in Kono and in Geometrix are  
 9 the same; is that right?

10          MS. WALDRON: Objection. Vague.  
 11          Form.

12          A. As I've said before, Geometrix --  
 13 sorry, as I've said before, Kono discloses a  
 14 large universe of algorithms, and it is my  
 15 opinion that those algorithms are included in  
 16 the patent and also in Geometrix.

17          Q. Are there any flow charts in Kono?

18          A. I don't remember seeing any flow  
 19 charts.

20          Q. Is there any code appended to the  
 21 Kono disclosure?

22          A. I don't remember seeing that  
 23 either.

24          Q. Do you know whether the word  
 25 software is mentioned in Kono?

1           Goodman  
 2 Q. I believe for this means for  
 3 processing element, you construed it to  
 4 include some structure that included Figure 7  
 5 of the patent; is that right?

6           A. Yes.

7           Q. Could we turn to Figure 7 of the  
 8 patent. I believe that's Exhibit 462. And  
 9 let me know when you're there.

10          A. Exhibit 462, yes. And anyplace in  
 11 particular? I found the patent.

12          Q. Yes, Figure 7. Let me know when  
 13 you're there.

14          A. Thanks.

15          I have Figure 7.

16          Q. This is part of the means for  
 17 processing in your view, right?

18          A. Yes.

19          Q. The first block, do you see what it  
 20 says?

21          A. Yes.

22          Q. Can you read that into the record?

23          A. Yes. The first block says,  
 24 "Receive one frame of data from all cell  
 25 sites."

Page 131

Page 133

1           Goodman

2          A. I don't recall seeing the word  
 3 software in Kono.

4          Q. Is the word algorithm mentioned in  
 5 Kono?

6          A. I don't recall seeing that.

7          Q. How do you know that if the means  
 8 for processing limitation is found in Kono,  
 9 then it must also be --

10         MR. MILCETIC: Scratch that.

11         Q. How do you know that if the means  
 12 for processing limitation is found in  
 13 Geometrix, then it must also be found in  
 14 Kono?

15         MS. WALDRON: Objection. It  
 16         assumes a fact.

17         A. I know that because Kono discloses  
 18 using data such as the difference in arrival  
 19 time in order to calculate location, and the  
 20 means for processing limitation also requires  
 21 the same words for virtually differences in  
 22 times of arrival. So that is the basis of --  
 23 and then someone recognized that there are a  
 24 lot of algorithms for using differences of  
 25 times of arrival for determining location.

1           Goodman

2          Q. Does Kono disclose receiving a  
 3 frame of data from all cell sites?

4          A. Yes.

5          Q. It does?

6          A. Yes.

7          Q. Does did happen in Geometrix?

8          MS. WALDRON: Objection. Vague.

9          Calls for a legal conclusion.

10         A. In my opinion, it doesn't happen in  
 11 Geometrix.

12         Q. So this is one instance where Kono  
 13 might disclose something that is present in  
 14 Kono irrespective of whether one would  
 15 construe the claim to cover Geometrix, right?

16         A. Would you read that question? I  
 17 didn't understand it.

18         (Record read)

19         A. I'm sorry, I have to hear that  
 20 again.

21         Are you saying that something is  
 22 present or a claim limitation?

23         Q. Well, I believe that you said that  
 24 receiving one frame of data from all the cell  
 25 sites is in Kono, right?

34 (Pages 130 to 133)

Esquire Deposition Services  
 (215) 988-9191

A110

793958b0-9d46-4d36-bbfc-5c2a24482dd7

<p style="text-align: right;">Page 170</p> <p>1           Goodman 2     It's argumentative and compound. 3     Dr. Goodman has been explaining his 4     positions to you all day. 5     Q. Can you go ahead and write on the 6     exhibits? 7     A. Sure. 8     Q. The court reporter is going to show 9     you what's been going to be marked as 10   Exhibits 471 and 472. Two blank pieces of 11   paper. 12    (Plaintiff's Exhibit 471, Blank 13   Piece of Paper, marked for 14   identification, as of this date.) 15    (Plaintiff's Exhibit 472, Blank 16   Piece of Paper, marked for 17   identification, as of this date.) 18    MS. WALDRON: I don't understand 19   if there is a question pending. I 20   think that this whole exercise is 21   compound, calls for speculation, calls 22   for a legal conclusion. It's an 23   improper hypothetical, and I don't 24   understand how he is supposed to do 25   this on the fly sitting at this</p>	<p style="text-align: right;">Page 172</p> <p>1           Goodman 2     Dr. Goodman is here as a technical 3     expert and is not being put up as a 4     claim construction expert. 5     MR. MILCETIC: Andrew will be 6     using Dr. Goodman to support its 7     construction claims. 8     MS. WALDRON: Is that a question? 9     MR. MILCETIC: A question to you. 10    MS. WALDRON: As you know, 11    Dr. Goodman submitted an infringement 12    report and an invalidity report, not 13    an expert report on claim 14    construction. 15    A. May I have one more sheet of paper, 16    please? 17    Q. This sheet of paper is going to be 18    marked as -- 19    A. I beg your pardon. I have it 20    already. 21    Mr. Milcetic, what would you like 22    me to do with Exhibit 469 and 470, can I just 23    write down that I changed my mind or -- 24    Q. In fact, since that was an effort 25    that didn't work out, you can cross it out if</p>
<p style="text-align: right;">Page 171</p> <p>1           Goodman 2     deposition. 3     Q. Dr. Goodman, just recall the 4     construction that you used to render your 5     invalidity report. Write that down for us. 6     A. Okay. 7     MS. WALDRON: Just so it's clear, 8     Andrew Corporation still has all the 9     same objections. 10    This whole line of questioning is 11    improper. You're asking him to assume 12    that Andrew infringes. 13    MR. MILCETIC: Coaching. 14    Q. You can continue. 15    MR. MILCETIC: Why don't we go 16    off the record and change the tape 17    while Dr. Goodman is working. 18    THE VIDEOGRAPHER: We're off the 19    video record at 5:09 p.m. 20    (Thereupon, a recess was taken, 21    and then the proceedings continued as 22    follows.) 23    THE VIDEOGRAPHER: We're back on 24    the video record at 5:21 p.m. 25    MS. WALDRON: I also on that,</p>	<p style="text-align: right;">Page 173</p> <p>1           Goodman 2     you think that's inaccurate. 3     A. If you don't mind, I'll draw a line 4     through it and I'll state for the record that 5     it doesn't represent the response to your 6     request. 7     Q. Okay, fair enough. 8     A. So I'm crossing out 469 and 470. 9     And I'm submitting 471 and 472. 10    Q. How would you characterize what you 11    have written on 471 and 472, Exhibits? 12    MS. WALDRON: Objection. Calls 13    for a narrative. 14    A. Oh, what I have written on my 15    exhibit is what the claim construction that 16    TruePosition would need to get to prove 17    infringement of the Geometrix band. 18    Q. Is it also the claim construction 19    that you used to render your invalidity 20    opinion? 21    A. Yes. 22    Q. Just so the record is clear, you do 23    not agree with the construction written on 24    Exhibit 471 and 472, correct? 25    A. That's correct.</p>

44 (Pages 170 to 173)

Esquire Deposition Services  
(215) 988-9191

A111

793958b0-9d46-4d36-bbfc-5c2a24482a37

Page 174

Page 176

1           Goodman

2       Q. Do you mind telling me what you  
3 wrote, reading it for me?

4       A. Okay. I'll start with Exhibit 471.

5       It says, "Claim construction that  
6 would be used to improve the infringement of  
7 the '144 patent by Andrew Geometrix  
8 technology."9       Q. Just to be clear, that's also the  
10 construction that you used for rendering your  
11 invalidity report, correct?

12      A. Yes.

13      Q. Go ahead.

14      A. "Claim 22, a ground based ...  
15 possessing multiple cellular telephones  
16 equals any cellular telephone system."17      Q. And you disagree with that  
18 construction, correct?

19      A. Yes.

20      Q. Go on.

21      A. Then there is a line, kind of a  
22 squiggly line separating that from the next  
23 claim element. And the next claim element is  
24 represented by these words, "At least three  
25 cell sites equipped with ... channels

1           Goodman

2       A. Yes.

3       Q. Is there any reasonable -- first of  
4 all, thanks for going through that exercise  
5 with me.6       Is there any reasonable  
7 interpretation of the claims that you are  
8 aware of under which Geometrix would infringe  
9 the '144 patent?

10      MS. WALDRON: Objection.

11      Improper hypothetical. Legal  
12 conclusion.13      A. I haven't done that analysis, but  
14 I'm certainly not -- the answer is no.

15      Q. You're not aware of any?

16      A. I'm not aware of any.

17      Q. Reasonable interpretation?

18      A. That's correct.

19      Q. Are you aware of any reasonable  
20 interpretation of the '144 patent claims  
21 under which Kono would invalidate the '144  
22 patent?

23      A. I think --

24      MS. WALDRON: Same objections.

25      A. I did this on the fly, but I think

Page 175

Page 177

1           Goodman

2       >equals", and then it says, "the cellular  
3 system has at least three base stations that  
4 receive signals from cell phones."5       And then there is a squiggly line,  
6 "locating means ... transmissions equals",  
7 and it says "the cellular system estimates  
8 the locations of subscribers. And" -- should  
9 I continue?10      Q. And you disagree with that  
11 construction as well, correct?12      A. Yes. It's quite different from the  
13 construction I think is correct that you  
14 asked me for before.

15      Q. Fair enough. You can continue.

16      A. It says "database means ...

17       locations. The cell phone system has the  
18 location information in its memory. It also  
19 has a code in memory that is specific to one  
20 instance of performing the locating means.  
21 If it performs locating means again for the  
22 same cell phone, it will have a different  
23 code in its memory."24      Q. You disagree with that  
25 construction?

1           Goodman

2       this interpretation would -- the  
3 interpretation of the claims that I just  
4 read.5       Q. Which would be in Exhibit 47 --  
6       A. 471 and 472.7       Q. Do you consider that a reasonable  
8 interpretation of the claims, 471 and 472?9       A. Oh, a reasonable interpretation of  
10 the claims under which -- I think it is the  
11 interpretation -- I didn't -- I performed my  
12 validity analysis using this interpretation  
13 of the claims, and I really don't agree with  
14 it, so maybe I can say anything I don't agree  
15 with is unreasonable. I don't know.16  
17  
18  
19  
20      (Continued on the following  
21 page to include the jurat.)  
22  
23  
24  
25

45 (Pages 174 to 177)

Esquire Deposition Services  
(215) 988-9191

A112

793958b0-9d46-4d36-bbfc-5c2a24482dd7

1

2 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

3

---

4 TRUEPOSITION, INC.,

5 Plaintiff/Counterclaim-Defendant

6

vs. CA No. 05-00747-SLR

7

ANDREW CORPORATION,

8

Defendant/Counterclaim-Plaintiff

---

9

10

11

12 CONTINUED VIDEOTAPED DEPOSITION

13

OF DR. DAVID GOODMAN

14

New York, New York

15

Tuesday, January 16, 2007

16

17

18

19

20

21

22

23

24

Reported by:  
Adrienne M. Mignano  
JOB NO. 190793

<p style="text-align: right;">Page 182</p> <p>1 2 3 4           January 16, 2007 5           9:45 a.m. 6 7           Continued Deposition of DR. DAVID 8           GOODMAN, held at the offices of 9           Kirkland &amp; Ellis, 153 E. 53rd Street, 10          New York, New York, pursuant to Notice, 11          before Adrienne M. Mignano, a Notary 12          Public of the State of New York.</p>	<p style="text-align: right;">Page 184</p> <p>1           Goodman 2           THE VIDEOGRAPHER: Good morning. 3           Here begins videotape number five 4           in the continuing deposition of 5           Dr. David Goodman in the matter of 6           TruePosition Incorporated versus 7           Andrew Corporation. 8           Today's date is January the 16th, 9           2007. The time is 9:45 a.m. You may 10          proceed. 11          DAVID GOODMAN, resumed as a 12          witness, having been previously sworn 13          by the Notary Public, was examined and 14          testified further as follows: 15          EXAMINATION BY 16          MR. MILCETIC: 17          Q. Dr. Goodman, yesterday we were 18          talking about your invalidity report and I'd 19          like to move on to your non-infringement 20          rebuttal report, if you don't mind. 21          Before we do, I would like to sort 22          of ask some questions that I think might 23          recap yesterday. 24          Is that all right with you? 25          A. Of course.</p>
<p style="text-align: right;">Page 183</p> <p>1 2          APPEARANCES: 3 4          WOODCOCK WASHBURN 5          Attorneys for Plaintiff 6          Circa Centre, 12th Floor 7          2929 Arch Street 8          Philadelphia, PA 19104-2891 9          BY: PAUL B. MILCETIC, ESQ. 10 11          KIRKLAND &amp; ELLIS 12          Attorneys for Defendants and The Witness 13          200 east Randolph Drive 14          Chicago, Ill 60601 15 16          BY: RACHEL PERNIC WALDRON, ESQ. 17 18          ALSO PRESENT: 19          PAUL JANSEN, Videographer</p>	<p style="text-align: right;">Page 185</p> <p>1           Goodman 2          Q. If I understand you correctly, your 3          opinion is that claim 1 of the '144 patent is 4          invalid if that claim is construed to cover 5          Geometrix, correct? 6          A. Yes. 7          Q. But you haven't formed an opinion 8          as to whether claim 1 is invalid if Geometrix 9          is not encompassed by claim 1? 10         A. That's correct. 11         Q. Is that also true for claim 2 of 12          the '144 patent? 13         A. Yes. 14         Q. Claim 22? 15         A. Yes. 16         Q. Claim 31? 17         A. Yes. 18         Q. Claim 32? 19         A. Yes. 20         Q. Let's move on to your rebuttal 21          report. Is that all right with you? 22         A. Yes. 23         Q. I believe it's Exhibit 467. 24         A. I'll park these documents. 25         Q. Yesterday I think you mentioned</p>

2 (Pages 182 to 185)



CLAIM CONSTRUCTION  
THAT WOULD BE  
USED TO PROVE  
INFRINGEMENT OF THE 7144  
PATENT BY ANDREW GEOMETRIX  
TECHNOLOGY

CLAIM 22

A ground-based ... possessing  
mobile cellular telephones =

Any cellular telephone system

At least three cell sites equipped  
channels =

The cellular system has at least  
3 base stations that receive  
signals from cellphones

locating means, transmissions =

The cellular system estimates the locations  
of subscribers

database means, locations



the cellphone system has the location information in its memory. It also has a code <sup>in memory</sup> that is specific to one location estimation procedure instance of performing the locating means. If it performs the locating means again for the same cellphone it will ~~stop~~ have a different code in its memory.

**CERTIFICATE OF SERVICE**

I, James D. Heisman, hereby certify that on this 31<sup>st</sup> day of January, 2007, I caused a true and correct copy of the foregoing **Appendix A to TruePosition's Memorandum in Support of its Motion for Partial Summary Judgment that Andrew Cannot Provide its Claims of Invalidity** upon the following individuals in the manner indicated below:

*Via hand-delivery*

Josy W. Ingersoll, Esq.  
Young Conaway Stargatt & Taylor, LLP  
100 West Street, 17<sup>th</sup> Floor  
Wilmington, DE 19801  
[jingersoll@ycst.com](mailto:jingersoll@ycst.com)

*Via e-mail*

Patrick D. McPherson, Esq.  
Duane Morris LLP  
1667 K Street, N.W.  
Washington, DC 20006-1608  
[PDMcPherson@duanemorris.com](mailto:PDMcPherson@duanemorris.com)

*Via e-mail*

Rachel Pernic Waldron, Esq.  
Kirkland & Ellis LLP  
200 East Randolph Drive  
Chicago, IL 60601  
[rpernicwaldron@kirkland.com](mailto:rpernicwaldron@kirkland.com)

/s/ James D. Heisman

James D. Heisman (# 2746)